

## REMARKS

Claims 1-9 are pending in the application and stand rejected. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### REJECTIONS UNDER 35 U.S.C. § 103

Claims 1, 3, 5, and 7-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis (U.S. Patent No. 5,142,473) in view of Motose et al. (U.S. Patent No. 6,364,726). This rejection is respectfully traversed.

Claims 2, 4, and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis (U.S. Patent No. 5,142,473). This rejection is also respectfully traversed.

In each of these claim rejections, the Outstanding Office Action states that claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function.

Applicants have amended the claims to a “means plus function” format under 35 U.S.C. §112 paragraph 6. Accordingly, the claims now recite the specific function of warning an operator or preventing an operator from starting an outboard motor prior to ignition of the outboard motor, when the outboard motor is tilted up beyond a maximum safe tilt position. None of the cited references teach or suggest such a function, and thus Applicants submit that the amended claims cannot be obvious and are now in condition for allowance.

Moreover, the standard for a 103 rejection “... is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be

solved as a whole would have suggested to those of ordinary skill in the art." *In re Kotzab*, 55 USPQ2d 1313 (Fed. Cir. 2000). [Emphasis added]. The nature of the problem to be solved in Davis is that of achieving a more optimal trim position while the boat is underway for a smoother boat ride. The nature of the problem to be solved in Motose et al. is that of improving the operations of two cycle engines. In contrast, the nature of the problem to be solved in the present application is that of warning or preventing an operator from starting an outboard motor when the outboard motor is tilted up beyond a maximum safe tilt position. Without any teaching or suggestion to provide a system that warns or prevents an operator from starting an outboard motor when it is beyond a maximum safe tilt position, one skilled in the art would not be motivated to combine Davis and Motose et al. to achieve the claimed invention. Accordingly, Applicants submit that the outstanding claims are not obvious in light of the cited references and respectfully request that these claim rejections be withdrawn.

#### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1216.

Respectfully submitted,

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